IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION No: 20835 of 2004

Between:

Bandlamoodi Udayeswar Rao, s/o Late Shri Krishnaiah, Hindu, R/o Brundavanam Garden, H.No. 3-28-41/18/A, 4th Turn, Guntur, Guntur District.

..... PETITIONER

AND

1 The Director of Medical and Health Services, Government of Andhra Pradesh, Sultan Bazar,Koti, Hyderabad.
2 The Regional Director of Medical and Health Services, Guntur Region, Guntur - 1, Guntur District.
3 The District Medical and Health Officer (DMHO), Guntur, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, direction, order or orders more particularly one in the nature of Writ of Certiorari- a) calling for records pertaining to O.A.No. 6046/2004 and quash the same and consequentially direct the 3rd respondent to implement the transfer orders dt. 24-8-2004 issued by the 2nd respondent in proceedings No. 1355/A2/2004, b) to direct the respondents to pay salary for the period from 25-8-2004 till the issuance of the joining report by treating the petitioner as on duty during the said period in the interest of justice

Counsel for the Petitioner: MR.A.CHANDRAIH NAIDU

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following:

ORAL ORDER: (BY GB,J.)

The Writ Petition is directed against the order, dated 3.11.2004 passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No.6046 of 2004.

2. The petitioner who was working as Multipurpose Health Extension Officer at Primary Health Centre, Katrapadu, made an application to Regional Director of Medical and Health Services – 2nd respondent, for transfer to Guntur on medical grounds. Thereafter, the 2nd respondent after taking concurrence from the Director of Medical and Health Services – 1st respondent, issued proceedings No.11740/E4.IIB/2004 dated 23-8-2004 directing the transfer of the petitioner at request on medical grounds without TTA and to be posted as MPHEO in the office of the District Medical and Health Officer, Guntur- 3rd respondent, in the existing vacancy caused due to retirement. It is also stated that the petitioner was relived. In pursuance of the said order, on 25-8-2004 the petitioner reported before the 3rd respondent. However, the 3rd respondent refused to issue necessary posting orders. Due to the inaction on the part of the 3rd respondent, the petitioner filed O.A.No.6046 of 2004 and the same was dismissed by an order, dated 3-11-2004, on the ground that the petitioner did not avail the alternative remedy of approaching the third respondent. Against the said order, the present Writ Petition has been filed.

3. Learned counsel for the petitioner submits that the order was issued after taking concurrence from the Director of Medical and Health and it is not open for the 3rd respondent to defy the orders of 2nd respondent. Thus, he submits that the tribunal failed to consider this aspect. It is submitted that he is also relived by the Katrapadu centre on 24-8-2004 itself, and reported to the 3rd respondent on 25-8-2004. Under those circumstances, he submits that the order, dated 24.8.2004 shall be implemented forthwith.

4. The learned Government Pleader submits that the order issued by the 2nd

respondent dated 24.8.2004 was kept in abeyance by the Director of Health on 26-8-2004, but these facts were not available before the tribunal. In order to avoid remitting the matter to tribunal for fresh consideration, we requested the learned Government Pleader to place before this Court the reasons for keeping the order under abeyance, which was issued on medical grounds. But he is unable to place any material before this Court. As can be seen, the order was issued on medical grounds, without TTA and also in the existing vacancy caused due to retirement of another individual viz., K. Bose at Guntur. Under those circumstances, we do not find any impediment to effect the order of the 2nd respondent, dated 24.8.2004.

5. Accordingly, the order of the tribunal is set aside. The Writ Petition is disposed of directing the 3rd respondent to issue appropriate posting orders in pursuance of the order issued by the 2nd respondent dated 23-8-2004.

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(G. BIKSHAPATHY, J.)

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(CH.S.R.K. PRASAD, J.)

Date: 17-11-2004

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To

1. The Registrar, A.P. Administrative Tribunal, Hyderabad.

2. The Director of Medical and Health Services, Government of Andhra Pradesh, Sultan Bazar,Koti, Hyderabad.

3. The Regional Director of Medical and Health Services, Guntur Region, Guntur - 1, Guntur District.

4. The District Medical and Health Officer (DMHO), Guntur, Guntur District.

5. 2 CCs to the G.P. for Services I, High Court of A.P., Hyderabad (OUT).

6. 2 CD copies.